

# HOUSE BILL No. 1429

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-1-5; IC 8-1-1-5.5.

**Synopsis:** IURC communications and deadlines. Prohibits a commissioner, an administrative law judge, or an employee of the utility regulatory commission (IURC) who is assigned to a formally docketed proceeding from communicating with a party to the proceeding unless certain requirements are met. Establishes certain deadlines relating to proceedings before the IURC.

**Effective:** Upon passage.

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**Mahern, Stevenson, Lutz J, Murphy**

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January 14, 2003, read first time and referred to Committee on Commerce and Economic Development.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1429

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 8-1-1-5 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The commission shall in  
3 all controversial proceedings heard by it be an impartial factfinding  
4 body and shall make its orders in such cases upon the facts impartially  
5 found by it. The commission shall in no such proceeding, during the  
6 hearing, act in the role either of a proponent or opponent on any issue  
7 to be decided by it. All evidence given in any such proceeding shall be  
8 offered on behalf of the respective parties to, or appearing in, the  
9 proceeding and not in the name or behalf of the commission itself.  
10 (b) Any report, audit, examination, or analysis prepared by the  
11 commission staff at the request or direction of the commission may be  
12 made a part of the record of the proceeding, subject to  
13 cross-examination by any party of the person who performed or  
14 directed the preparation of the report, audit, examination or analysis.  
15 (c) If in any such proceeding the public interest is not otherwise  
16 adequately represented by counsel, in the opinion of the commission,  
17 it shall be the duty of the utility consumer counselor, if requested by the



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commission, to make adequate preparation for the presentation of the interests of the public in such proceeding and ~~he~~ **the utility consumer counselor** shall at the hearing represent the public interests therein involved.

(d) However, nothing in this section prevents the commission from instituting, prosecuting, hearing, or determining any investigation or proceeding which it is authorized to do, or make, on its own motion by any law with the administration of which it is charged.

(e) ~~Except as otherwise provided in this chapter, no member or A commissioner, an administrative law judge, or a staff employee of the commission assigned to make findings of fact and conclusions of law in a formally docketed evidentiary proceeding may not communicate in connection with any issue of fact, or law, or policy disputed in that proceeding with any party or his a party's representative, except on notice and with opportunity for all parties to participate.~~ **unless the party agrees to report the communication in the manner provided in this subsection, and regardless of whether the communication is initiated by the party or the party's representative or by the commissioner, administrative law judge, or staff employee. A party shall report a communication described in this subsection not later than three (3) working days after the date on which the communication occurs by submitting a notice of ex parte communication to the administrative law judge or commissioner assigned to the proceeding and to the secretary of the commission for inclusion in the public record. A notice provided under this subsection must include the following information:**

(1) The date, time, and location of the communication and whether it was oral, written, or oral and written.

(2) The identity of:

(A) all participants in the communication;

(B) the person initiating the communication; and

(C) any other persons present during the communication.

(3) A description of the communication and a summary of the content of communication.

The party shall attach to the notice required under this subsection a copy of any written material or text used during the communication.

(f) Notwithstanding subsection (e), a commissioner, an administrative law judge, or a staff employee of the commission assigned to a formally docketed proceeding may not communicate in connection with any issue of fact, law, or policy disputed in that

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proceeding with any party or a party's representative after the close of the evidentiary record.

(g) A person who violates this section commits a Class C infraction.

SECTION 2. IC 8-1-1-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) As used in this section, "proceeding" refers to an adjudicatory proceeding, a contested case, a tariff or other investigation, an arbitration, a complaint case, an alternative regulation case, a rulemaking, or any other proceeding before the commission.

(b) This subsection applies in a complaint proceeding filed under IC 8-1-2-54. The person beginning the proceeding must file the person's direct testimony and exhibits with the commission not later than thirty (30) days after the proceeding begins.

(c) This subsection applies in a proceeding where proposed rules or comments will be presented. The person beginning the proceeding must file the person's proposed rule or comments with the commission not later than thirty (30) days after the proceeding begins.

(d) In each proceeding, the commission shall do the following:

(1) Upon the request of a party to the proceeding, establish a procedural schedule not later than thirty (30) days after the proceeding begins.

(2) Enter a decision on the merits not later than sixty (60) days after the matter has been heard and briefed unless the commission issues a written order extending the time for decision.

(3) Enter a decision on the merits of a petition for rehearing or reconsideration not later than sixty (60) days after the petition has been heard and briefed, unless the commission issues a written order extending the time for decision.

(e) An order extending the time for decision under subsection (d) must state the cause for the delay and may not delay entry of the decision more than sixty (60) days after the date the decision was required to be entered under subsection (d). The commission may not extend the time for its decision more than one (1) time.

(f) The deadlines established by this section may be extended by written agreement of the commission and all parties to the proceeding.

(g) Each year, the commission shall include in its annual report to the regulatory flexibility committee established by IC 8-1-2.6-4 a report on its compliance with this section as to all its proceedings

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1 **during the previous calendar year.**  
2 **SECTION 3. An emergency is declared for this act.**

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